

UNITED STATES DISTRICT COURT  
FOR THE  
EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

JOHNNY HA and JENNY PHAM a/k/a	)	
JENNY HA,	)	
Plaintiffs,	)	
	)	
v.	)	Civil Action No.: 6:22-cv-00462
	)	
DENISE BRITT NGUYEN	)	
Defendant.	)	

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**DEFENDANT’S RESPONSE TO**

**PLAINTIFF’S MOTION IN OPPOSITION TO**

**DEFENDANT MOTION TO SET ASIDE RULE 55 (a) F.R.C.P CLERK’S**

**DEFAULT ENTRY**

Defendant Denise Britt Nguyen submits to this Honorable Court Defendant’s Response to Plaintiff’s Response to Defendant’s Motion to Set Aside Clerks’s Default Entry.<sup>1</sup> Defendant’s filing addresses under Item 1 an excerpted allegations referenced by Plaintiff’s filing in opposition<sup>2</sup> to Defendant’s Motion to Set Aside Clerk’s Default Entry entered on December 30, 2022 pursuant to Rule

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<sup>1</sup>Case 6:22-cv-00462-JCB Document 7 Filed 01/11/23

<sup>2</sup>Case 6:22-cv-00462-JCB Document 8 Filed 01/19/23

55 (a) F.R.C.P . Council for Defendant under Item 2 also addresses a “Social Media” concern.

### **I. Failure to Answer Not Willful**

Plaintiff opposition motion states the following:

“According to Defendant, she contacted Mr. Hughey during the “week of December 2022,” but was “not able to meet with him because of health related issues....” D. Nguyen ¶ 5. Defendant does not explain or otherwise document any alleged “health related issues supposedly encountered or detail how or why these alleged health issues prevented her meeting with Mr. Hughey.”

In connection with the statement attached hereto is a copy of a letter from Defendant’s health care provider which notes that “The patient above has been followed by our clinic due to COVID infection and COVID related complication . She has been very ill over this time period and is being monitored and treated by myself.”<sup>3</sup> Council would tender to this Honorable Court that as presented in Defendant’s original Declaration Defendant’s health related issue are real. Additionally Plaintiff allegation associated the December 7, 2022 monitoring of Defendant’s Face Book page doesn’t negates the efforts of Plaintiff to seek council after December 7, 2022 or that her failure to file an Answer was not

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<sup>3</sup>See Attachment A to Council Declaration

Willful.<sup>4</sup>

## **II. Social Media**

Council for Defendant in Defendant Motion to Set Aside commented that this case is a Vietnamese Community Battle and Cultural made case. The comment was an effort to underscore a case predicated on a close universe of individual and the application and use of “Social Media” for debate and dialogue. Council for Defendant has currently become part of said debate and dialogue as reflected in Attachment B. The attachment reflects a recent Face Book Post captioned as: “Luat su cua ba Phi Yen <sup>5</sup> William Todd Hughey Law Firm, PLLC.” The post not created by Defendant appeared at a point in time following council’s filing of Document 7 in the pending matter. It is my understanding based the notations on Attachment B that as of this filing the post had 19 views, 6 comments and 1 shared. The post is a commentary on Defendant’s Document 7 filed herein.<sup>6</sup> The posting may it be good or bad reflects the concern of council stated in Document 7 to wit: that “Language” presents its own sets .....of limitations in East Texas in

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<sup>4</sup> Council for Defendant for purpose of the Record Objects to Plaintiff Declaration which contains Plaintiff self translation associated with a live stream that was presented in a language other than English.

<sup>5</sup> The text “Luat su cua ba Phi Yen” contained a numerous “accent mark” that my system was not able to duplicate.

<sup>6</sup> I do not read or speak Vietnamese.

Defendant's pursuit of legal representation adding to Defendant's good cause for failure to file a timely Answer and negating the concept of a Willful act as to not filing timely Answer.

Defendant in closing re-urge by reference Defendant's previous arguments in Document 7 filed herein concerning:

**III. Setting Aside Default Not Prejudicial To Plaintiffs and**

**IV. Meritorious Defense**

Defendant also again respectfully request that Defendant's previous motion be granted in all parts and that upon granting of Defendant's "Motion to Set Aside Entry of Default " the Court grants Defendant 7 days to serve Answer to Defendant in respond to Plaintiff's Complaint.

Respectfully submitted,

**THE HUGHEY LAW FIRM**

BY: /s/ William T. Hughey

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that counsel of record who are deemed to have consented to electronic services are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on this the 26<sup>th</sup> day of January 2023.

/s/ William T. Hughey